IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 12TH APRIL 2007 / 22ND CHAITHRA 1929

RP.No. 643 of 2001(B) IN W.A. 1184 OF 1993

AGAINST THE ORDER IN C.M.P. No. 136 of 2001 in WA.1184/1993 Dated 02/07/2001

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REVIEW PETITIONERS/IMPLEADING PETITIONERS:

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1. TRESA METILDA, D/O. LATE K.C. AUGUSTINE,
KURUPPASSERIAL HOUSE,
OCHANTHURUTH P.O., PIN – 682 508.

2. PANCHAMI NARAYANAN,
S/O. LATE KOCHUKORAN, AGED 80 YEARS,
RESIDING AT KAKKIRISSERI HOUSE,
MANJANAKKAD, NARAKKAL P.O.

3. ELSY, W/O. LATE AUGUSTINE, AGED 47 YEARS,
RESIDING AT PLAYITHARA HOUSE,
OCHANTHURUTH P.O.

4. AMMINI KARUNAKARAN,
W/O. LATE NARAYANAN KARUNAKARAN,
AGED 56 YEARS, NEDUMPARAMBIL HOUSE,
MANAPPILLY, AYYAMPILLY P.O.

5. RADHA, W/O. LATE DAMODHARAN,
AGED 61 YEARS, KANNAPPASSERY HOUSE,
ELANKUNNAPUZHA P.O.

6. STALIN, S/O. DAMODHARAN,
KALLAMKOTT VEEDU, AGED 35 YEARS,
CHERAI P.O.

7. BABY P.S., W/O. LATE UDAYAN, AGED 45 YEARS,
CHULLIPARAMBIL HOUSE, NARAKKAL P.O. PIN – 682 505

8. VILAMA PETER, W/O. LATE PETER,
MALIYAKEL HOUSE, ELANKUNNAPUZHA.

9. K.D. BALAN, S/O. LATE DAMODARAN, KOLLAMKOTT HOUSE,
CHERAI, 13/506 , PIN – 683 514.

10. MARGILI, W/O. LATE JOHN, OLIPARAMBIL HOUSE,
AGED 50 YEARS, ELANKUNNAPUZHA P.O.

BY ADV. SRI.A.X. VARGHESE

RESPONDENTS/RESPONDENTS::
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1. VYPIN VISHAMADHYA KOOTTAKOLA VIRUDHA SAMITHY,
REPRESENTED BY ITS CONVENOR, K.N. SUKUMARA MENON,
S/O. NARAYANA MENON, KAIPILLIL HOUSE, ALAPPUZHA.

2. STATE OF KERALA, REPRESENTEDC BY CHIEF SECRETARY,
SECRETARIAT, TRIVANDRUM.

3. K.K. VIJAYAN, KAITHAVALAPPIL HOUSE,
NAYARAMBALAM.

4. M.P. AUGUSTINE @ KOCHAGUSTY,
MENACHERY HOUSE, NARAKKAL.

5. K.K. CHANDRASENAN @ BABY,
EAREZHATHVEED HOUSE,
H.NO. XXVIII/244, PANAMPILLY NAGAR,
ERNAKULAM.

6. M.K. THAMPAN, MAILMATTATHIVEEDU, PALACE BHAGOM,
THIRUVAMKULAM,
KANAYANNOOR.

BY ADV. SMT.VANAJA MADHAVAN
BY ADVOCATE GENERAL
BY ADV. SRI.V.I.JOSEPH
BY GOVERNMENT PLEADER ADV. SMT. K.R. DEEPA.

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 12/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KURIAN JOSEPH & K.T. SANKARAN, JJ.

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R.P. No. 643 OF 2001 IN W.A. 1184 OF 1993

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Dated this the 12th April, 2007

O R D E R

Kurian Joseph, J:

This Review Petition is filed by 10 persons seeking to review the order dated 02.07.2001 in C.M.P.No. 136 of 2001 in W.A. 1184 of 1993 in the matter of payment of compensation to the parties affected in the Vypeen hooch tragedy. In view of the intervening developments, grievance survives only in respect of the first review petitioner- Tresa Metilda, 4th review petitioner-Ammini Karunakaran and 9th review petitioner-K.D. Babu.

2. In the statement filed by the District Collector, Ernakulam it is stated that as far as Ammini Karunakaran is concerned, compensation can be disbursed to the legal heirs within a short period. As far as K.D. Babu is also concerned, it is stated that compensation will be paid to him within a short span of time. Thus, there is objection only with regard to Tresa Metilda, the first review petitioner. It is stated by the District Collector that no materials are available to show that Tresa Metilda is the legally adopted child of late Augustine and that she being a foster child of late

Augustine, compensation cannot be granted to her. Thus there is no dispute that Tresa Metilda is the foster child of Augustine and Elcy. On such admitted status, when considered along with the materials produced by the first review petitioner along with the reply affidavit, whether Tresa Metilda would be entitled to receive the compensation is the question.

3. Annexure A1 is the will dated 13.05.1997 executed by Elcy, wife of late Augustine in favour of Tresa Metilda. Annexure A2 is the deed executed by the brother of late Augustine in favour of Tresa Metilda . Annexure A3 is the electoral card, wherein Tresa Metilda is shown as the daughter of late Augustine . Annexure A4 is the certificate issued by the President of Elamkunnappuzha Panchayat to the effect that Tresa Metilda is the adopted child of Augustine. Annexure A5 is the identity card of the Service Co-operative Bank wherein also late Augustine is shown as the father of Tresa Metilda . Annexures A6 and A7 are copies of ration cards, wherein also Tresa Metilda is shown as the daughter of late Augustine. Annexure A8 is the certificate issued by the Parish Priest certifying that Tresa Metilda is the adopted child of late Augustine and Elcy. Annexure A9 is the photo copy of the gas distribution slip . Since there is no statute governing adoption of child as far as christians are concerned and there being no dispute as to the effect that Tresa Metils is

the foster child of Augustine and all the documents referred to above would show that Tresa Metilda has been treated , for all purposes, as the child of Augustine and Elcy, it is only in the interest of justice that the first review petitioner is to be treated as the eligible claimant for compensation due to the death of Augustine in connection with Vypeen hooch tragedy.

Therefore, there will be a direction to the District Collector to disburse the compensation to the first review petitioner also along with the disbursement of compensation to Ammini Karunakaran and K.D. Babu. This shall be done within a period of one month from the date of production of a copy of this order.

Review petition is disposed of as above.

KURIAN JOSEPH,
JUDGE.

K.T. SANKARAN,
JUDGE.

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KURIAN JOSEPH &
K.T. SANKARAN, JJ.

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R.P.No. 643 OF 2001 IN
W.A. No. 1184 of 1993

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